

SENATE BILL No. 236

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-34.

Synopsis: Child in need of services matters. Provides that if a child is a victim of human or sexual trafficking, vicarious sexual gratification, child solicitation, patronizing a prostitute, or promoting prostitution, the child may be a child in need of services. Provides that certain children may be children in need of services if they live in the same household as: (1) a child who is a victim of certain sex crimes; or (2) an adult who has been convicted of or charged with certain sex crimes.

Effective: July 1, 2016.

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January 7, 2016, read first time and referred to Committee on Family & Children Services.



Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 236

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 31-34-1-3, AS AMENDED BY P.L.168-2014,
2 SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 3. (a) A child is a child in need of services if,
4 before the child becomes eighteen (18) years of age:
5 (1) the child is the victim of a sex offense under:
6 (A) IC 35-42-4-1;
7 (B) IC 35-42-4-2 (before its repeal);
8 (C) IC 35-42-4-3;
9 (D) IC 35-42-4-4;
10 **(E) IC 35-42-4-5;**
11 **(F) IC 35-42-4-6;**
12 ~~(E)~~ **(G)** IC 35-42-4-7;
13 ~~(F)~~ **(H)** IC 35-42-4-9;
14 ~~(G)~~ **(I)** IC 35-45-4-1;
15 ~~(H)~~ **(J)** IC 35-45-4-2;
16 **(K) IC 35-45-4-3;**
17 **(L) IC 35-45-4-4;**



1 ~~(H)~~ **(M)** IC 35-46-1-3; or
 2 ~~(H)~~ **(N)** the law of another jurisdiction, including a military
 3 court, that is substantially equivalent to any of the offenses
 4 listed in clauses (A) through ~~(H)~~; **(M)**; and
 5 (2) the child needs care, treatment, or rehabilitation that:
 6 (A) the child is not receiving; and
 7 (B) is unlikely to be provided or accepted without the coercive
 8 intervention of the court.
 9 (b) A child is a child in need of services if, before the child becomes
 10 eighteen (18) years of age:
 11 (1) the child lives:
 12 **(A)** in the same household as another child who is the victim
 13 of a sex offense under:
 14 ~~(A)~~ **(i)** IC 35-42-4-1;
 15 ~~(B)~~ **(ii)** IC 35-42-4-2 (before its repeal);
 16 ~~(C)~~ **(iii)** IC 35-42-4-3;
 17 ~~(D)~~ **(iv)** IC 35-42-4-4;
 18 **(v) IC 35-42-4-5;**
 19 **(vi) IC 35-42-4-6;**
 20 ~~(E)~~ **(vii)** IC 35-42-4-7;
 21 ~~(F)~~ **(viii)** IC 35-42-4-9;
 22 ~~(G)~~ **(ix)** IC 35-45-4-1;
 23 ~~(H)~~ **(x)** IC 35-45-4-2;
 24 **(xi) IC 35-45-4-3;**
 25 **(xii) IC 35-45-4-4;**
 26 ~~(I)~~ **(xiii)** IC 35-46-1-3; or
 27 ~~(J)~~ **(xiv)** the law of another jurisdiction, including a military
 28 court, that is substantially equivalent to any of the offenses
 29 listed in ~~clauses (A) items (i)~~ through ~~(H)~~; **(xiii); or**
 30 ~~(2) (B) the child lives~~ in the same household as ~~the an~~ adult
 31 who:
 32 ~~(A) (i) committed the a sex offense under subdivision (1)~~
 33 **clause (A)** and the sex offense resulted in a conviction or a
 34 judgment under IC 31-34-11-2; or
 35 ~~(B) (ii) has been charged with a sex offense listed in~~
 36 subdivision (1) and is awaiting trial;
 37 ~~(3) (2)~~ the child needs care, treatment, or rehabilitation that:
 38 (A) the child is not receiving; and
 39 (B) is unlikely to be provided or accepted without the coercive
 40 intervention of the court; and
 41 ~~(4) (3)~~ a caseworker assigned to provide services to the child:
 42 (A) places the child in a program of informal adjustment or



other family or rehabilitative services based upon the existence of the circumstances described in ~~subdivisions~~ **subdivision (1) and (2)** and the assigned caseworker subsequently determines further intervention is necessary; or
 (B) determines that a program of informal adjustment or other family or rehabilitative services is inappropriate.

SECTION 2. IC 31-34-1-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 3.5. (a) A child is a child in need of services if, before the child becomes eighteen (18) years of age:**

(1) the child is a victim of a human or sexual trafficking offense under IC 35-42-3.5-1; and

(2) the child needs care, treatment, or rehabilitation that:

(A) the child is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

(b) A child is a child in need of services if, before the child becomes eighteen (18) years of age:

(1) the child lives:

(A) in the same household as another child who is the victim of a human or sexual trafficking offense under IC 35-42-3.5-1; or

(B) in the same household as an adult who:

(i) committed a human or sexual trafficking offense under IC 35-42-3.5-1 that resulted in a conviction or a judgment under IC 31-34-11-2; or

(ii) has been charged with a human or sexual trafficking offense under IC 35-42-3.5-1 and is awaiting trial; and

(2) the child needs care, treatment, or rehabilitation that:

(A) the child is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

SECTION 3. IC 31-34-10-3, AS AMENDED BY P.L.234-2005, SECTION 180, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 3.** Before complying with the other requirements of this chapter, the juvenile court shall first determine whether the following conditions make it appropriate to appoint a guardian ad litem or a court appointed special advocate, or both, for the child:

(1) If the child is alleged to be a child in need of services:

(A) under IC 31-34-1-6;

(B) under IC 31-34-1-10 or IC 31-34-1-11;



- 1 (C) due to the inability, refusal, or neglect of the child's parent,
 2 guardian, or custodian to supply the child with the necessary
 3 medical care; or
 4 (D) because the location of both of the child's parents is
 5 unknown;
 6 the court shall appoint a guardian ad litem or court appointed
 7 special advocate, or both, for the child.
 8 (2) If the child is alleged to be a child in need of services under:
 9 (A) IC 31-34-1-1;
 10 (B) IC 31-34-1-2;
 11 (C) IC 31-34-1-3;
 12 **(D) IC 31-34-1-3.5;**
 13 ~~(E)~~ (E) IC 31-34-1-4;
 14 ~~(F)~~ (F) IC 31-34-1-5;
 15 ~~(G)~~ (G) IC 31-34-1-7; or
 16 ~~(H)~~ (H) IC 31-34-1-8;
 17 the court shall appoint a guardian ad litem, court appointed
 18 special advocate, or both, for the child.
 19 (3) If the parent, guardian, or custodian of a child denies the
 20 allegations of a petition under section 6 of this chapter, the court
 21 shall appoint a guardian ad litem, court appointed special
 22 advocate, or both, for the child.
 23 SECTION 4. IC 31-34-12-4.5 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4.5. (a) There is a
 25 rebuttable presumption that a child is a child in need of services if the
 26 state establishes that:
 27 (1) another child in the same household is the victim of:
 28 (A) a sex offense described in IC 31-34-1-3; **or**
 29 **(B) an offense described in IC 31-34-1-3.5; and or**
 30 (2) the sex offense described in IC 31-34-1-3 **or an offense**
 31 **described in IC 31-34-1-3.5:**
 32 (A) was committed by an adult who lives in the household
 33 with the child; and
 34 (B) resulted in a conviction of the adult or a judgment under
 35 IC 31-34-11-2 as it relates to the child against whom the ~~sex~~
 36 offense was committed.
 37 (b) The following may not be used as grounds to rebut the
 38 presumption under subsection (a):
 39 (1) The child who is the victim of:
 40 (A) ~~the~~ a sex offense described in IC 31-34-1-3; **or**
 41 **(B) an offense described in IC 31-34-1-3.5;**
 42 is not genetically related to the adult who committed the act, but



1 the child presumed to be the child in need of services under this
2 section is genetically related to the adult who committed the act.

3 (2) The child who is the victim of:

4 (A) ~~the a~~ sex offense described in IC 31-34-1-3; or

5 (B) **an offense described in IC 31-34-1-3.5;**

6 differs in age from the child presumed to be the child in need of
7 services under this section.

8 (c) This section does not affect the ability to take a child into
9 custody or emergency custody under IC 31-34-2 if the act of taking the
10 child into custody or emergency custody is not based upon a
11 presumption established under this section. However, if the
12 presumption established under this section is the sole basis for taking
13 a child into custody or emergency custody under IC 31-34-2, the court
14 first must find cause to take the child into custody or emergency
15 custody following a hearing in which the parent, guardian, or custodian
16 of the child is accorded the rights described in IC 31-34-4-6(a)(2)
17 through IC 31-34-4-6(a)(5).

